

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DEPOSITION UNDER ORAL EXAMINATION OF
PATTI NEMETH, M.D.

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1 you're using?

2 MR. BROSS: Yes.

3 MR. KLATT: Okay.

4 MR. OTT: Thank you.

5 BY MR. BROSS:

6 Q. Do you recall when you first saw or
7 started treating Ms. Sansone?

8 A. No.

9 Q. And the records -- and the records that
10 I've just handed you from the best I can tell
11 appear to start in January of 2003; does that
12 refresh your memory maybe?

13 A. That is the first narrative report I have
14 when -- that was a telephone conversation. And
15 after reviewing all of the records, I realized
16 that I must have seen her before that, but I just
17 don't know when that was.

18 Q. And I couldn't find any earlier records
19 either.

20 MR. OTT: Just from the standpoint of
21 the -- from the hospital, we went back to look for
22 the records, these were the earliest ones that we
23 had, so that's what we provided.

24 MR. BROSS: Okay.

25 Q. And in these records it looks like she is

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1 sides of the brain.

2 BY MR. BROSS:

3 Q. Then I believe she called you on August
4 the 4th, page 19.

5 A. Yes.

6 Q. And what did she -- what was the reason
7 for the call?

8 A. Excuse me. Yes, August 4th. She said
9 she was pregnant, not very far along, and was on
10 Depakote. She -- I remember her telling me that
11 she believed that's what she was on for her first
12 pregnancy and that she did well. So that's all it
13 says.

14 Q. And here she was on Depakote 1000 BID?

15 A. Twice a day. Yes, 1000 BID.

16 Q. And I think you told us earlier that it
17 was your recommendation to continue patients on
18 Depakote during pregnancy based on the risks that
19 you knew at the time?

20 A. That's --

21 MR. KLATT: Doctor, I need to object to
22 the form. I think that's incorrect, but you may
23 go ahead and answer.

24 MR. OTT: You can go ahead and answer in
25 your own words.

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1 A. Can you repeat your question, please?

2 BY MR. BROSS:

3 Q. I think it was your recommendation to
4 continue patients on Depakote during pregnancy
5 based on the risks that you knew at the time?

6 MR. KLATT: Objection, form.

7 A. Well, it's my recommendation that a
8 patient with a seizure disorder be on an
9 antiseizure medicine. In her case, I told her she
10 should be on Depakote because she failed the class
11 C drug that I tried her on and that she had failed
12 other drugs. So we -- she accepted the risk. We
13 discussed this.

14 BY MR. BROSS:

15 Q. And are there other antiepileptic drugs
16 she could have been tried on as well?

17 A. I can't convert someone over during
18 pregnancy. So the answer would be that I
19 attempted to get her on Lamictal, which is class
20 C. She was tried on Keppra at some point, which
21 is class C, and didn't tolerate that. And -- at
22 that time, I'm not sure what else was available.
23 I know Trileptal was class C.

24 Q. Then on, it looks like September the 2nd,
25 page 21, you received a call. And can you tell me

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1 the reason for this call?

2 A. Yes, she is pregnant now, two and a half
3 months pregnant.

4 And she had a seizure, which would be
5 considered a generalized, probably tonic-clonic
6 seizure. She lost consciousness. I'm sorry, I'm
7 going to have to correct that. She described the
8 seizure in which she did lose consciousness and
9 she woke up with a headache. I do not know if she
10 was jerking, but it was a seizure.

11 Q. And there's some handwritten notes there.
12 Can you explain what those are?

13 A. Yes. My plan was to get a stat Depakote
14 blood test of both total and free Depakote. I
15 wrote, "Calm and stressful," but I don't know what
16 that means. Then I told her if she had another
17 seizure while waiting for these labs, that she
18 should take an additional 500 milligrams of
19 Depakote.

20 Q. And I notice it said there,
21 "Mother-in-law putting a lot of stress on her."
22 Could that be what you mean about calm and stress
23 free?

24 A. Maybe that was it. Perhaps that's true.

25 Q. Can there be some lifestyle sort of

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1 behalf.

2 Q. Are there other types of nondrug
3 treatments -- I know we talked about reducing
4 stress, are there other types of nondrug
5 treatments that can help?

6 A. To my knowledge, I mean, there are
7 reports about diets and stress free and avoidance
8 of alcohol, but to my knowledge, a person that has
9 seizures should be on a seizure medicine. Those
10 other things should be part of the lifestyle
11 program.

12 Q. I'm going to skip ahead to what's been
13 marked as page 29, which is a visit in April of
14 2005.

15 MR. KLATT: I'm sorry, what page?

16 MR. BROSS: Page 29.

17 MR. KLATT: Okay.

18 BY MR. BROSS:

19 Q. And can you tell me why she came in at
20 that visit?

21 A. Yes. She came in for routine followup.
22 She had delivered a baby three weeks prior and we
23 were discussing how to adjust her Depakote now
24 that she was not pregnant.

25 Q. And I think you noted she had been on

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1 accurate information?

2 A. Yes.

3 Q. Where do you -- where did you usually get
4 the information you got?

5 MR. KLATT: Objection, form.

6 A. Well, early on it was textbooks and our
7 training program in neurology. Part of that
8 program is to rotate into subspecialties and be
9 intensely involved in patients with high risk
10 seizures and so we learned from them.

11 BY MR. BROSS:

12 Q. Would you also get it off labels of
13 medications?

14 MR. KLATT: Objection, form.

15 A. Early on, I had the large PDF -- no,
16 not --

17 MR. OTT: PDR?

18 A. PDR opened all of the time. So, yes, we
19 would utilize that.

20 Q. Would you get information sometimes --
21 I'm not sure of your practice -- with sales reps
22 calling on you?

23 A. Sales reps called us, but we didn't
24 really get our information from them.

25 Q. Would you sometimes get letters from a

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1 Q. Dr. Nemeth, you prescribed Depakote for
2 Ms. Sansone during the remainder of her first
3 pregnancy and also throughout her second pregnancy
4 with [REDACTED] A.S., the child that's the subject
5 of this lawsuit, because in your professional
6 medical judgment, you thought it was the very best
7 medication for her at the time based on her
8 individualized medical history and experience?

9 MR. BROSS: Object to form.

10 BY MR. KLATT:

11 Q. To your knowledge, correct?

12 A. Yes. Yes, that's true and the reason was
13 that I didn't have any other choices at the time
14 other than Lamictal, which was a class C, and she
15 didn't tolerate that.

16 Q. Well, that -- you anticipated my next
17 question. Subsequently, she was tried on other
18 newer epileptic drugs that didn't have the safety
19 or efficacy track record that Depakote had,
20 correct?

21 A. It had better -- some with better safety,
22 that would be class C, is that what you mean?

23 Q. Well, I guess -- let me rephrase my
24 question.

25 You knew as of 2003 that Ms. Sansone had,

CERTIFICATION

I, DANA N. SREBRENICK, a Certified Court
Reporter for and within the State of New Mexico,
do hereby certify:

That the witness whose testimony as herein
set forth, was duly sworn by me; and that the
within transcript is a true record of the
testimony given by said witness.

I further certify that I am not related to
any of the parties to this action by blood or
marriage, and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 5th day of October 5, 2016.

DANA N. SREBRENICK, CLR, CRR

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